

IN THE COURT OF THE TRANSPORT TRIBUNAL
TRANSPORT ACT, 1947, AS AMENDED BY TRANSPORT ACT, 1953

IN THE MATTER OF THE APPLICATION OF THE
BRITISH TRANSPORT COMMISSION (1958 No. 1)



To Confirm the
British Transport Commission (Passenger)
Charges Scheme, 1958

MONDAY, 16TH MARCH, 1959

TWENTY-FIRST DAY



LONDON: HER MAJESTY'S STATIONERY OFFICE
1959

TEN SHILLINGS NET

THE CIVIL SERVICE COMMISSION

WASHINGTON, D. C.

OFFICE OF THE CHIEF CLERK

WASHINGTON, D. C.

TO THE COMMISSIONER

OF THE CIVIL SERVICE COMMISSION

WASHINGTON, D. C.

DEAR SIR:

Yours of the 14th inst.

is received.

Very respectfully,
Your obedient servant,

PROCEEDINGS OF THE TRANSPORT TRIBUNAL

MONDAY, 16th MARCH, 1959

PRESENT :

SIR HUBERT HULL, Kt., C.B.E. (*President*)

J. C. POOLE, Esq., C.B.E., M.C.

H. H. PHILLIPS, Esq., O.B.E.

Mr. E. STEWART FAY, Q.C., and Mr. PATRICK BROWNE (instructed by Mr. M. H. B. Gilmour, Chief Solicitor to the British Transport Commission) appeared on behalf of the British Transport Commission.

Sir MILNER HOLLAND, Q.C., C.B.E., Mr. LEON MACLAREN, and Mr. GEORGE MERCER (instructed by Mr. J. G. Barr, Solicitor to the London County Council) appeared on behalf of the London County Council, Hampstead Borough Council and the Islington Borough Council.

Mr. B. J. MACKENNA, Q.C., and Mr. D. A. GRANT (instructed by Mr. Kenneth Goodacre, T.D.) appeared on behalf of the Middlesex County Council, Berks. County Council, Bucks. County Council, Hertford County Council and Surrey County Council.

Mr. DUDLEY COLLARD (instructed by Mr. E. R. Farr), appeared on behalf of the Barking Borough Council and the South Essex Traffic Advisory Committee.

Mr. LEON MACLAREN and Mr. GEOFFREY RIPPON, M.P. (instructed by Mr. Vernon Lawrence, O.B.E.) appeared on behalf of Anglesey, Cambridge, Cheshire, Cumberland, Denbigh, Dorset, Durham, Flint, Glamorgan, Hampshire, Isle of Ely, Isle of Wight, Lancs., Leicester, Merioneth, Monmouth, Norfolk, Northampton, Nottingham, Oxford, Soke of Peterborough, Somerset, Stafford, West Sussex, Worcester and Kent County Councils.

Mr. D. A. GRANT (instructed by Mr. R. Webster Storri) appeared on behalf of Beckenham Borough Council.

Mr. GEOFFREY RIPPON, M.P., and Mr. ROY CALVOCORESSI (instructed by Mr. G. E. Smith) appeared on behalf of West Ham County Borough Council, East Ham County Borough Council, Croydon County Borough Council, Walthamstow Borough Council and Wanstead and Woodford Borough Council.

Mr. S. H. NOAKES (instructed by Mr. N. P. Lester) appeared on behalf of Hastings Borough Council.

Mr. A. E. TELLING (instructed by Messrs. Radcliffes & Co.) appeared on behalf of the London Passengers' Association.

Mr. P. T. LEWIS (instructed by Messrs. Gaby Hardwicke & Co.) appeared on behalf of the Hastings, Bexhill & District Season Ticket Holders Association.

Mr. ARCHIBALD GLEN, Town Clerk, appeared on behalf of the Southend-on-Sea County Borough Council.

Mr. F. A. RULER, represented the Federation of Residents' Associations in the County of Kent.

Mr. D. J. D. WELLUM, represented the Benfleet & District Railway Travellers' Association.

Mr. JOHN MAGUIRE, F.C.I.S., represented the United Commercial Travellers' Association of Great Britain and Ireland.

Miss DOROTHY D. FORSTER, represented the Walthamstow Trades Council.

Mr. G. A. BAGNALL, represented the Herne Bay Urban District Council.

(*Mr. Fay*): May it please you, Sir; before I resume the main thread of my argument, may I go back to two matters. The first is as regards the arguments of the Objectors on early morning fares. It has been pointed out to me on behalf of my learned friend Mr. Rippon that I had not dealt with his argument that in addition to hardship—to which I understood that he, for one, attached but little importance, perhaps wisely—he was making the argument that the effect of the early morning cheap fare was to spread the peak and to encourage the staggering of the hours of employment.

Perhaps I should have dealt with that, Sir, and I say at once that the evaluation of that kind of factor is a matter for the management of London Transport, and indeed for British Railways outside London and on London Lines.

The evidence, as you know, is that this fare has no material influence in spreading the peak; the peak is there because of the working hours—the twin peak in the morning because some people go to work at 8 o'clock and others at 9 or later—and it has no effect on the evening peak; and as far as the staggering of the working hours is concerned, I would submit that it is a very remote contingency that factories will open an hour later merely because the cost of travel in the morning will be increased.

In any case, Sir, in my submission the evaluation of those factors is a matter for management; in so far as they have any force, they are matters which management would take into account in considering whether or not to retain, either wholly or in a modified form, the early morning fare.

The other matter is a matter which you, Sir, put to me towards the close of the proceedings on Friday as regards the costings adopted in the Merchandise Scheme—

(*President*): Yes, Mr. Fay; you were right and I was wrong.

(*Mr. Fay*): Thank you, Sir; that will save me—

(*President*): The prices were taken at mid-1955.

(*Mr. Fay*): Yes, Sir, and it does appear in the tables that there was in fact a renewals entry for the wagon costs—Table AWT 2; it also appears as a specific item in Table AWT 10 on the renewal of locomotives. It also appears, not as a mentioned item, but as an item behind the figures, in a number of other tables. It emphasises the consistency of the Commission in always proffering this basis for consideration at these inquiries.

Now may I resume what I was saying about replacement reserve. I had made the point that the Commission had consistently from its earliest days—the days in point of fact when it was something of a pioneer in a view to which now the great body of informed opinion and, as I have submitted, the Government, so far as one can deduce it from statements and policy, now adhere—took the decision on broad considerations of policy, both as regards the Commission and as regards national policy.

I would like from that point to make this submission, Sir: There are really two quite separate aspects of this consideration of replacement reserve; the first one is the one I have already embarked upon, which is: Is it right in the national interest, in the case of a national undertaking, to provide for replacement at enhanced costs?

The other matter is: Is it a fair process to adopt in the interests of the travelling public? To that I have not yet come.

While I am still upon the first point, I do want to develop—and perhaps you will forgive me if I do so a little further—the question of the relative effects upon the economy of this country of, on the one hand, replacement at replacement costs—providing for depreciation whether by replacement cost depreciation of itself or by replacement reserve, providing for replacement out of earnings—or on the other hand providing for the increased cost of replacement by fresh borrowings.

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[Continued]

Borrowing, as I submitted last Friday, is done by the Commission on the money market. That market is subject to the ordinary laws of supply and demand; money does not grow on trees—

(President): But it is not always done by the Commission on the money market?

(Mr. Fay): Save under the 1957 Act, when it is borrowed from the Consolidated Fund in special circumstances.

(President): Yes; it borrows on the money market when there are not special circumstances.

(Mr. Fay): But these are very special circumstances, Sir.

(President): Yes—very special circumstances, if you like.

(Mr. Fay): The modernisation of British Railways required an Act of Parliament to make it possible.

So far as London Transport is concerned in this matter, any borrowings to finance the replacement of their assets will have to be obtained upon the money market—

(President): But the Government advances are not only by virtue of the 1957 Act, Mr. Fay; it is the Finance Act 1956, is it not, but I am not certain whether it makes any difference to your argument.

(Mr. Fay): I am talking about the issue of Transport Stock, Sir.

(President): Oh, well—certainly.

(Mr. Fay): I do not mind for purposes of my argument whether it comes from the money provided by the Nation's savings or the money provided by the Nation's compulsory savings which find their way into the fund via taxation—

(President): No, I am not sure that I do, but when I am told that it "always" gets its money from the money market, and I know it does not, I am moved to say so.

(Mr. Fay): Yes, Sir, but the point is this; that if it is borrowed, it has to come from somewhere, and I submit it is a vital question to which any Government must address its mind: What is to be the policy in this regard as to nationalised undertakings?

In 1946 and 1947 a large sector of the economy of this country was nationalised; prior to that date it had been owned by private organisations, companies and the like, and it had in those days gone in for a certain measure of self-financing; and what is more important from the point of view of this argument, it had declared dividends and had thus swollen the amount of money available in the country for lending.

If the balance as between lending and borrowing is disturbed—if there is less money on offer in the country for lending and a greater demand by those who wish to borrow—then either interest rates go up or else there has to be some form of control by the Government, and we have seen both those factors in recent times in this country. It must be a matter for the consideration of those in control of the Nation's economy, whether or not that process is to be influenced and enhanced by the policy of the large sector of the Nation's industry that has been nationalised, whether they should go in for any degree of self-financing or not. They have ceased, *ex hypothesi*, to contribute by dividends to the Nation's savings; they go on contributing so far as the interest on Stock is concerned, but the value of that contribution decreases year by year as inflation takes its course; it is not made up by dividends keeping pace, as dividends do, with the equity values representing the real value of money and there is diminution year by year in the amount so contributed.

If at the same time—using here the phraseology which is popular in this Tribunal—a "double blow" is struck to the economy by the withdrawal of self-financing and a reversion to the practice of borrowing, then the balance between lenders and borrowers is disturbed, and that is a matter which must receive the attention of those who wish to keep the Nation's economy on an even keel.

I put that forward, Sir, as a consideration which must lead the Government to have a view on those matters, and as an explanation of the view which plainly has been expressed, both at this kind of Inquiry and by the

Minister on appeal in Road Traffic cases from the Provinces, and which was spoken about in perfectly clear terms on the reading of the Electricity Bill last January by the Paymaster-General.

(President): How far has the present Transport Bill got, Mr. Fay; where is it at the moment?

(Mr. Fay): The Bill to increase the general borrowing powers of the Commission—I do not know, Sir, but I will try to find out. I am told that it has been passed by their Lordships' House.

(President): It went to the Lords first?

(Mr. Fay): Yes; it has not yet been passed by the Commons. I am told, Sir, that it has not received the Royal Assent.

(President): Then it is through both Houses?

(Mr. Fay): Apparently, Sir, yes.

I can illustrate the point I am making, by a comparison of the financial state of the two great organisations that are largely responsible for road passenger transport in this country; first there is the Commission, which I represent, and secondly, there is the British Electric Traction Company, which is privately owned, and which, of course, owns a great number of Provincial Bus Companies, companies in which the Commission has its share, although not the controlling interest.

The British Electric Traction Company's Provincial Companies, as we have heard in the course of this Inquiry, place large sums to reserve, and they also pay dividends. They increase the amount of the Nation's savings available for borrowing, and they also do not make demands upon it by way of borrowing in order to replace their assets when they fall due for replacement.

If the opposite policy is to be pursued by the British Transport Commission companies and by London Transport, one has this paradoxical position that the provincial bus passengers in areas served by the British Electric Traction Company are paying fares on a basis of providing not only for their own renewal on current cost levels, but also of providing savings through dividends which are going to swell the amount of money on offer to be borrowed by the British Transport Commission in order to finance the like process in London. That is, I hope, a not unfair summary of what the position would be if there were not allowed to be for London Transport any replacement reserve.

Now may I, before I go on to the detailed arguments which have been addressed to you on replacement reserve, deal with a question you, Sir, put to me at the close of the sitting on Friday. You said in effect: What would the Tribunal's duty be if the Tribunal thought that to provide sums asked for by way of reserve would ruin the market, or have a grievous effect upon the undertaking's customers?

(President): Where was that, Mr. Fay?

(Mr. Fay): It is on the last page of the transcript of last Friday's hearing, Sir, page 457. It is also in the very last line of page 456. You said: "if in that endeavour they are going to ruin their market", and you went on to say: "If we thought that it would have a very grievous effect on their customers now at this moment to impose an additional working expense of £3.0m. a year, we would be right, would we not, in not providing you with an opportunity of obtaining that extra £3.0m.?" I answered that question at once, Sir, with the categorical negative, and I would like to expand why I said "No" to that question.

It seems to me that this question and answer goes to the root, does it not, of the difference between a Scheme of Charges which provides for actuals and a Scheme of Charges which provides for true maxima. The question of whether there is going to be a ruin of the market, the question of whether there is going to be a grievous effect on the customers reflected in the earnings and the scope of activity of the undertaking, must be matters of management; in my submission they must not affect the consideration of where the maximum charges should lie.

(President): But we are talking here about London.

(Mr. Fay): Yes, Sir.

(President): And we are told that here in London these charges are going to be actuals at some time.

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[Continued]

(Mr. Fay): Yes, Sir, at some time—eventually.

Perhaps that is where I had better go back to what Mr. Harboursaid in a considered answer as to the implementation of the Scheme. It is at page 165 of the Seventh Day, Question 2113; it is the last question on that page.

Mr. Harboursaid there said: "That is not to say that each one of the fares in the London Area will be pushed up to the maximum specified in the Scheme. I would agree that we would have the power to do this if the present proposals were approved by the Tribunal; but the use of the new powers will be influenced by need and by practical commercial considerations. In practice, what we shall endeavour to do in the years ahead is to adjust fares in the light of requirements and in the light of the economic circumstances prevailing, so that in due course London Transport and the London Area as a whole is put on a proper financial basis. By that I mean a basis upon which the passengers using the services provided pay the cost of their ride and no more. That is the eventual objective".

What Mr. Harboursaid was saying there was that he contemplated using eventually all the powers asked for by and large; but that is not to say that each one of the fares in the London Area would necessarily ever go up to the maximum, and it is not to say that it is going to happen at once. It is going to happen in stages, influenced, as he said, by need and by practical commercial considerations, and, of course, the most urgent practical commercial considerations must be the effect upon the traffic, the effect upon goodwill and indeed that which was summarised, as I understand the question you put to me, by the phrase "the ruin of the market".

I say at once, Sir, and I say unequivocally and respectfully, that if the market is going to be ruined, that is a decision to be taken by those who are in charge of the undertaking; it is we, the Commission and London Transport, who must take the decision, right or wrong, whether to introduce a particular charge if that charge is going to be justified by their financial requirements.

(President): Mr. Fay, what decisions are we to take? I gather that most matters are to be left to the skill and judgment of the Commission, but what field of activity is left to us—tossing up a coin for 3d. or 4d.?

(Mr. Fay): We are on London now, Sir. In London your task, as I see it, is to provide a maximum which is no more than can be fully justified financially; that is the limit which we have put upon it. It might well be that the Commission could have come here and asked for a maximum higher in London on other considerations—

(President): I gather on this interpretation of Mr. Harbours evidence that London Transport does not need £10½m. in 1959?

(Mr. Fay): It needs it from the financial angle. The question is whether it can properly get it, and whether any particular increase will be imposed depends upon whether those in charge think they can, weighing all the relevant circumstances, get the money without hurting the undertaking. If they are hurting the undertaking, it means that they are diminishing its earning power in the future, and they have to look ahead as well as at the immediate present.

Mr. Harbours position is quite clear, Sir; he wants to get that which he regards as essential for the financial health of his undertaking, namely the £11m. over and above the working expenses; but he recognises, and he shows it in that answer and in other answers, that you cannot slap this on necessarily all at once.

May I go back to what London Transport did with the sub-standard fares? You will recollect there was at one time a very considerable body of sub-standard fares, and it was the declared policy of the Executive to get rid of them within the then maxima. They could have put them all up at once, but they chose not to; they never put them up by more than one stage at a time, and they have had now, I think, three bites at them and there are very few left; there are still some where they were extremely sub-standard. That is part of the process of using one's commercial judgment within maxima, in order not to harm the undertaking, or not to ruin the traffic or have a grievous effect on the undertaking's passengers.

(President): One does not want to go far back into the old, far-off unhappy days of the past, but I thought the Commission did at one time take a very large single bite, and they found that obstacles were put in their way by people other than this Tribunal.

(Mr. Fay): It may be that they learned the lesson the hard way, but they did learn it, as subsequent events showed, in my submission.

Where is the discretion which the Act says is to be vested in the undertaking, unless we are to be allowed to choose the timing and the amount of increases within the maxima allowed? If I may respectfully so put it, I would say that the Tribunal's function is to impose the maxima which the Commission thinks reasonably necessary in order to produce sums which the Tribunal regard as proper sums to be produced by London Transport. The introduction of any increase, its timing and the amount, I submit must surely come within paragraph (d) of Section 20, sub-section (2), as a matter which must be left entirely to the discretion of the Commission, and that is where there will be avoided any ruination of the undertaking or any grievous effect upon the passengers.

That is my understanding of that point, Sir; as I see it, it goes really to the whole root of this discretion, does it not? If the Tribunal's view of their function was that it is to look at the commercial considerations and to say: Although we think you have made out your financial case and that, other things being equal, you ought to have £11m., nevertheless we think that if we were running the organisation we would not put it on now, or why in 12 months' time, because of its effects upon the passengers or its effects upon the traffic, or its effects upon future trends, I would say respectfully that the Tribunal would then be invading the managerial function of the organisation and would be contravening the spirit of the Transport Act of 1953.

(Mr. Phillips): Are you suggesting, Mr. Fay, that the maximum charges should be sufficient at this moment, or having regard to a period of years?

(Mr. Fay): The maximum charges for which we ask are designed to produce a revenue of something under £11m. over and above working expenses; that is the sum which we say we ought to have now. Whether we can get it now must be left, in my submission, to the management, and as I have indicated, and as Mr. Harbours has indicated, the management must move towards that goal by steps.

Of course, if it all comes at once on one black Sunday, there would be a shock and a good deal of murmuring. It would not be right to implement it all at once; financially, and looked at from the point of view of the accounts, the money ought to be obtained commercially—those who seek to obtain it must have regard to all the commercial considerations which affect them, namely the effect upon the passengers and upon the traffic in the future. This is the goal towards which they wish to work, and that is why Mr. Harbours always made the point that these powers were to be used eventually.

Over how many years the word "eventually" contemplates the spread, I cannot say, but it is contemplated that there shall not be a sudden imposition of fares at the limit of the new powers sought; and I submit that the Commission are acting with moderation in pitching the requirement no higher than they are. I have submitted the financial points they have raised against themselves in arriving at a surplus of no more than £11m. as the target; it is one which financially can be fully justified, and that is where they say the maximum should be pitched. The Tribunal might well have been asked to pitch it higher; if it pitches it at that point, it will be pitching it at a far lower level than it is asked to pitch it in the case of British Railways outside London; it gives no elbow room, or head room, for future flexibility or for future decline in the value of money, and in my submission, Sir, something must be left to the commercial judgment of the managers of the undertaking; there must be something to which they must address their minds. When one looks at paragraph (d) of Section 20, sub-section (2), it is something upon which they have to exercise their judgment when deciding what fares are to be introduced, and if the Tribunal says: "No; it is our view that there should be lesser maximum fares, because we think now that that is all this undertaking ought in present circumstances to take from the customers", then they are beating down the level of the maximum below the proper financial requirement, down to a level dictated by commercial considerations, and that is just what in my submission paragraph (d) plainly indicates should not happen.

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[Continued]

The area of discretion in the London part of the Scheme is not the flexibility discretion which is asked for outside London; it is a discretion as to the timing and the degree of implementation, and in my submission that is the proper way at which to look at this Scheme, so far as London is concerned, bearing in mind that the Commission fully accepted closer control within London than without. I hope I have put the point sufficiently plainly, and I hope sufficiently respectfully. In my submission, that is where the requirement should be pitched.

In answer to your question about the current borrowing powers Bill, I have now the detailed information that you require. The Bill received the Third Reading in the House of Lords on the 12th of this month, and it now awaits the Royal Assent.

If I may pass on now to the next part of my argument about replacement reserve—that is its quantum—the figure of £3.0m. as a figure is not now, I think, seriously in dispute. It is either right to catch up with each year's instalment of inflation, or it is not, and if it is right to catch up, then we have produced a figure which, in my submission, again errs on the modest side.

You will recollect, Sir, what the figures given by Mr. James are; they appear at Question 670 on page 79 of the transcript. He says that the amount required to lift to current prices those assets which at present are being depreciated, is £2.8m.; but if one lifts the whole of the assets which are depreciable—that is to say, adds to the assets comprised in the first figure, those which are time expired because they are still running after the end of their depreciation life—then the figure is £3.9m.; and it would have been quite easy on those figures for the Commission to have asked for £3.9m. under this head. That is another example, when the Commission asks for £3.0m. and no more, of what I have ventured to call on several occasions now, the modesty of this Application; and I understand now, although Mr. Lawson seemed at one time to jib at the idea of anyone trying to make the calculation, that these are the figures, and indeed Mr. Hill said it was a calculation with which he was quite familiar and which he had done himself as regards provincial bus companies.

I do not lose sight of the fact that Sir Milner Holland proposed what he called a half-way house on the matter, but I will come to that presently. It is not, in my submission, a half-way house in any true sense of that term, and as a figure of replacement reserve requirement, in my submission the £3.0m. is unchallengeable.

Now may I look at the arguments which have been advanced as to the merits of the reserve, passing on from the national interest to the interest of the undertaking and of the travellers, which are, or should be, co-terminous interests. The authority of the pronouncements which have been laid before you is almost unanimous in favour of the Commission, and I will not weary you, or burden the note, with reciting the various excerpts from reports and so forth; they are there to be read.

Against the device of having a replacement reserve are ranged Mr. Lawson who has given evidence, with some support from Sir Harold Howitt in his purported summing-up of speeches which had gone before at a conference. Well, Sir, if Sir Harold Howitt was purporting to sum up those speeches, all I can say is that he was not summing them up very accurately, because the speeches which had gone before were speeches which I could take comfort in rather than my learned friends.

Now may I come to Mr. Lawson's approach. It is sometimes said of lawyers that they become legalistic; whether there is a term "accountantistic" I rather doubt, but if there were I should be tempted to use it of Mr. Lawson. His approach is the approach of a man concerned solely with figures; it is very much the approach of a man, as it seems to me, who is concerned with ownership all the time. He was looking at the matter from the point of view of the ownership, as he thought, of the undertaking, and he was saying in effect: "The owners are the stockholders".

But the owners are not the stockholders, and in my submission that is a wholly illusory approach. Whether Mr. Lawson has been intimately concerned with the takeover bids about which we hear so much these days, I do not know, but that would lead one to emphasise the owners'

interest in the equity of a joint stock company; but from this point of view the stockholders are merely persons from whom money has been borrowed. This undertaking is not run with the primary object of remunerating them, but it is run in the interests of the travelling public—in the long-term and true interests of the travelling public; it is a nationalised undertaking, which if it belongs to anyone, belongs to the Nation. The stockholders are persons to whom it has an obligation to make a payment year by year, and it is wholly wrong, in deciding this vitally important question, to pay attention to the fact that there are stockholders to be remunerated. It is not a matter upon which I think Mr. Lawson is even on firm ground on that point, because if his policy is pursued, the loan stockholders, the owners of the loan capital, will find this happening: Year by year fresh money has to be borrowed; year by year there is an increasing debt; year by year there is an increasing number of other loans ranking *pari passu* with them, and year by year the amount they can look to get from the undertaking is put in peril by this increasing borrowing.

(President): But I think Mr. Lawson's argument was not quite that, was it? He was concerned to say that there might be, and he thought there were, reasons why a very full replacement policy was desirable where the capital employed was equity capital, and that those considerations did not apply where the capital employed was loan capital. That is what I understood Mr. Lawson was saying.

(Mr. Fay): Yes, Sir.

(President): The consequence that follows may well be that there are reasons which are applicable in the case of equity capital, and it does not follow that because there are those special reasons in the case of equity capital, there are not equally good reasons applicable to loan capital.

(Mr. Fay): But he was saying, was he not, that they are the overriding reasons? I fully appreciate, in the case of a shareholding, that there is an added reason in favour of the case we are seeking to pursue, but we have no equity shareholders, so we do not call it in aid; but that cannot affect the consideration of the other factors, and it is the other factors which are present and which Mr. Lawson was inclined to ignore.

(President): I do not think he did. In addition to drawing attention to the obvious distinction between the interest of the lender of loan capital and the interest of a shareholder in the equity, he did say that it was not in the interests of the consumer that the present consumer should be loaded with the burden of seeing that the future consumer should have the same apparatus available for him, but that that ought to be left to the future consumer—in other words, the money should be borrowed.

(Mr. Fay): He did say that, but he regarded it as a very secondary consideration compared with the ownership of the capital. That is why he was saying that the Herbert Committee had not seen the light—that they had neglected to observe that the industry he represented was financed by loan capital.

(President): He was getting rid of a point that was against him!

(Mr. Fay): In my submission, Sir, the point has been disproved out of his own mouth, firstly by the ludicrous and paradoxical results one gets if one puts to him the examples of the provincial bus companies, where there are three companies operating in adjacent areas, one owned by the Commission, one owned by a concern of the old-fashioned capitalistic kind, and a third half and half—it leads to the position that the passengers in each of those three areas have to pay a different scale of fares because of the difference in the financial structure.

(President): But there is not a difference in the financial structure, is there? The British Transport Commission's interest in one of those three companies is a shareholder's interest, is it not, and no more?

(Mr. Fay): Yes, Sir, but in the case of the wholly-owned companies, he was saying, and rightly I suppose, according to his point of view, that you must disregard the fact that this company is a company limited by shares and with a share capital, because its share capital is narrowed by the structure; if it is part-owned by the

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[Continued]

British Transport Commission, you must look upon it as an organisation with a loan capital—

(President): That distinction does not attract me.

(Mr. Fay): I am glad to hear you say so, Sir, but might I come to grips with Mr. Lawson's point that it is wrong to make passengers pay today in order to save passengers for the future, I think I may show the unfairness of adopting Mr. Lawson's approach and the fairness of adopting ours.

I think I can show that by the tables which are now printed on pages 412 to 416 of the transcript, which Mr. Lawson produced; we have not had an opportunity of discussing those yet, although I am sure that they have been fully considered by the Tribunal. They are tables WHL 8 to WHL 10.

These are a set of tables which emphatically demonstrate what happens according to the two rival systems of depreciation in the case of a bus company with a fleet of ten buses—I think they are my £1,000 buses, for which I am beginning to take increasing credit!

This time ten of them are so arranged that one falls to be replaced each year, and the object of the first table, table WHL 8 "A", as I see it, is to show that starting in the tenth year, you have a balanced fleet of different ages equally spread over the period of replacement, and it goes on to say how much depreciation charge is required on the historical cost method on the fleet as a whole year by year.

The object of that table is to demonstrate what has been done and to produce figures for writing into the following tables.

I do not think I need examine the intervening tables, Sir, but I would like to come at once to the last of them. That is Table WHL 10, which gives a comparison of what in fact happens in this hypothetical, but I concede at once perfectly admissible, example of the ten buses equally spread over their depreciation period.

Table WHL 10 shows the position year by year, starting at the 11th year, because that is the first year in which the full diversity of vehicles is worked out in figures, going down to the 30th year; that gives in column 2 the cost of the bus at the beginning of the year—in other words, it is a reflection of inflation which is postulated to continue down to and including Year 20.

In Year 20 the table puts a useful postulation for our purposes, namely that inflation stops—

(President): You said a useful postulation for your purposes, Mr. Fay?

(Mr. Fay): Yes, Sir—very useful as showing where the rival method takes one. In Year 20, and thereafter, prices remain stable—

(President): It is unlikely, is it not, that the prices will arrive at the Year 20 level and there stop, and move neither up nor down for the next ten years?

(Mr. Fay): Someone must contemplate that inflation will be halted at some stage; one always hopes that it is slackening.

(President): Yes, but the possibility is that the value of money might rise. This table seems to assume that something is going to happen at the end of Year 20, and there will be a continuous plateau, as I think it is called, at the end of Year 20.

(Mr. Fay): I think the most anybody could hope for is that money will remain stable—that it will not rise in value.

At any rate, Sir, there is the assumption, and the accumulated cost at the beginning of the year is brought out in column 3. Then there are two sets of columns showing the financial requirement on the historical cost method, columns 4 to 8; the year's charge in column 4 is the total historical cost depreciation. The other columns, up to column 7—columns 5 and 6 are columns necessary to produce a working of the interest on the capital to be borrowed for replacement purposes, and that produces in column 7, Year 20, this result, that interest at 4 per cent. is £38 on the amount borrowed to bridge the gap between historic cost and replacement cost. The year's charge on historic cost is £1,393 in Year 20, and

the two together, which is what the passengers have to find, is £1,731. That is the position in Year 20, when prices have become stable.

Looking over at the replacement cost method, the year's charge is higher; it is £2,000. The interest charge is less, £137. The total charge is higher; it becomes £2,137 that the passengers have to pay during that year.

But what I want to point out is, what happens thereafter. In Year 20, on the hypothesis of this table that inflation has stopped and that from Year 20 to Year 30 prices are stable and that money retains its value—that goods do not go up in price and that wages do not go up, and that there is a level, happy state of economy—what happens with the bus passengers? In Years 21 to 30, as this table shows, the company which is using the historic cost method has year by year to obtain more and more money from its customers until Year 30, when the revenue for financing replacement has gone up from £1,731 to £2,440, and Year 30 remains stationary at this figure in the years following, provided inflation does not re-start, or deflation does not re-start, it remains stationary at that figure.

Now look at the replacement cost column for the same period, 10 years from the 20th to the 30th Year. The financial requirement to be obtained from the passengers has gone up to £2,137 in Year 20, and there it stays; in other words, when costs cease to rise, one of the merits of my approach to the matter is that the financial requirement to be exacted from the passengers also ceases to rise.

That is a matter of great importance, Sir, because it would be an unfortunate state of affairs if, in a time of stable economy, at a time when prices were stationary in the shops and for all the other articles and services which persons had to pay for, some bus or transport undertakings alone had year by year to go on in that time of stable economy, increasing their fares in order to produce an increasing revenue to meet the replacement costs; and that is what they would have to do on this table which, as I accept, is a faithful reproduction of the process. They would have for ten years—that is to say the entire depreciation period of the last bus bought during inflation—to go on increasing year by year until they got up to the 30th Year. That is the end of the depreciation period, because a 10-year life is assumed, and there is a great merit in the replacement cost method, that when inflation stops, so do increases in charges.

Then there is brought out in column 14 that which I suppose Mr. Lawson was anxious to bring out, namely, the fact that year by year, down to Year 23, the replacement cost method demands a sum of money from passengers in excess of the other method. Those figures in column 14, as I understand it, are the differences between columns 13 and 8, the amounts required from the passengers.

So what happens? Although my method requires more from the passengers in the initial period than in the later years, in the later years it requires less, and when you get down to the 30th Year, the requirement has become £303 less under my system than it is under Mr. Lawson's system.

Mr. Lawson's table stops at Year 30, which perhaps is unfortunate; if he had continued it for a further eight years down to the 38th Year, he would have had another eight lines all containing what is in the line for Year 30, and at the end of the 8th Year the amount provided by the two sets of passengers would have become precisely the same; in other words, in column 14 there would be a nil entry by the 38th Year—the two sets of passengers would have provided precisely the same sum. But the two sets of passengers having provided precisely the same sum by the 38th Year, and everything thereafter being stationary, look at the result: In the 39th Year the passenger under the replacement cost method provides less than he does under the historical cost method, and the passengers who have enjoyed the historical cost method are left with a loan indebtedness of £11,000 (column 6) to be repaid; whereas the passengers under the replacement cost method are left, after the 38th Year, when they have both paid precisely the same amount, a loan indebtedness of £3,436 to be repaid, and that is where they start being better off.

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[Continued]

In my submission, this table which is, as I accept, the fair working out of the differences between the two methods, demonstrates the fairness and the equity of the replacement cost method; if you go on long enough, it is cheaper once prices have become stable on the replacement cost method, and the replacement cost method has the added advantage of taking the money from the passengers at a time when all other prices are rising, so that they understand what is going on and they are not being asked to make an increasing contribution at a time when other prices are stationary, and when they certainly will not understand that this alone, out of the services for which they pay, requires extra sums of money year by year. That, in my submission, is a useful table, and I am very much obliged to my learned friend for putting it in; it seems to me to demonstrate the result admirably.

Another way of looking at the two methods in order to consider which is fairer is to ask this question: To whom should go the profits of inflation? Whenever there is inflation there is, in terms of currency, a profit in circumstances such as these. It is an accidental and undeserved profit, but there it is.

I could draw the simple parallel of a man who years ago had borrowed £1,000 at 5 per cent. in order to buy a house. He has gone on paying his £50 a year on his fixed interest loan ever since, and he now finds that he has a house worth £3,000; he has made a profit out of his borrowing owing to inflation. If he had to borrow today to buy that house he would have to pay three times as much. That is just what happens when inflation enhances the value of the buses and rolling-stock which are running on the transport undertaking.

To whom should the profit be handed? Mr. Lawson's method hands it all to the current passengers at the time of the inflation, but, in my submission, it is fairer to spread the profit over a longer period and to hand it to the future passengers as well as to the present passengers. That is what our method does; it hands the profits of inflation to the passengers over a longer period of time, and, as I point out, eventually, if prices become stable for long enough, it is cheaper. That is all I think I need say about that part of the matter.

I should notice, before I depart from it, Mr. Lawson's sporting-chance argument, the sporting chance that if you depreciate at historic cost you will not in the end have to find all the interest which is shown on his Table WHL 10 owing to technological improvement. The matters to which he referred, the fact that, owing to such improvements, an asset may have a longer life and the fact that, owing to improvements, it may be more profitable, are both present in the figures which the Transport Commission have put before you. You recollect it was worked out in detail as regards the Piccadilly Line. The life is now 40 years instead of 30 years on the old cars and there is some net revenue saving as a result of the improvement in the rolling-stock being produced, but it is quite insufficient in quantum to affect the result, and you have seen, from the figures as regards the Piccadilly Line, that the result is as we have stated it to be and does not affect the necessity for a £3m. Replacement Reserve. There is no prospect in the transport industry of such a vast improvement in profitability as would give any validity to Mr. Lawson's sporting chance; it is a rank outsider, and I ask you to dismiss it.

Before I finally part with this topic, may I notice what Sir Milner Holland called his half-way house?

(President): The £1.2m., was that?

(Mr. Fay): Yes. As I understand it, he based himself on the table which is printed at page 411 and went through this calculation: Taking column 8, that shows that there is to be an increased financial requirement for interest and depreciation of £1.85m. by the end of 1963 after taking into account the revenue savings on those three items; then he says, quite rightly, that the fourth amount, the Amersham improvement, will pay for those items so far as itself is concerned and contribute another £0.1m., so he gets his total extra revenue requirement down to £1.75m., and then he says in the footnote that of that £0.7m. will be provided by self-financing by using the current depreciation at historic cost, and, deducting the £0.7m., he gets £1.05m., which he generously rounds up to £1.2m., and says: "Now, there is a figure which you

could take as a half-way house." Well, it is not a half-way house at all on the Replacement Reserve question, because there is not a penny in it for replacement at current costs. It is merely a recognition of what will be, on these figures, the actual requirement of expenditure on the items set out in the table, that money will have to be found by the end of 1963 in respect of those items as a matter of pounds, shillings and pence and not as a matter of provision, as we wish to have it, in a Replacement Reserve. So it is not a half-way house, it is a bare minimum of looking forward to the actual financial requirement in 1963, assuming no self-financing other than that which is provided by historic-cost depreciation. In point of fact, as you know, the Commission have not contemplated this kind of calculation, and the figures given by Mr. James were not figures susceptible of this kind of calculation because he had not then given the total contemplated capital expenditure to the end of 1963. Those figures were given by him at page 428, so that this table could be corrected as soon as it was seen that this kind of calculation was to be made, and the result is that there is to be another £19m. of capital expenditure over that period, and the result will be that column 6—that is the total of extra interest and extra depreciation required—will rise to £3.8m., the revenue savings in column 7 will rise to £0.7m., and the figure in column 8, accordingly, will be £3.1m. From that £3.1m. one can deduct the £0.1m. for the Amersham improvement bonus, leaving £3m.; the self-finance remains stationary at £0.7m., leaving £2.3m. to be found.

So if that calculation is of any utility it must be done upon the correct figures, and it shows an additional revenue requirement, assuming no reserves, by the end of 1963 of £2.3m., which, on Sir Milner's rounding up, might be said to be £2½m. So it is not a half-way house in any sense of the term towards a Replacement Reserve, it is a recognition of what is to be the altered situation at the end of 1963, and if one is looking at that it is of the order of £2½m. So, in fact, it is not so very far short of what happens if you take the view which has been taken by the Commission of asking for £3m. for Replacement Reserve.

The final point I have to meet on Replacement Reserve is the matter raised by Mr. Hill that the Commission, although they advocate a Replacement Reserve, when they get the opportunity to provide for one in the case of their provincial bus companies wholly owned by the Commission do not do so. You know the answer to that: The answer is Income Tax, the recovery by the loss-making Commission of the Income Tax paid by its profit-making wholly owned subsidiaries. It is perfectly true that the wholly-owned subsidiaries do not set up something specifically labelled as a Replacement Reserve, but they do set up a reserve, and the important thing is this, that they go to the Traffic Commissioners with figures showing a financial requirement based upon replacement of assets at current prices, and they get the money on that basis, and so far as the operation of the undertaking is concerned in so far as the reality of the situation is concerned, it is getting the money that matters and not the label which is put upon the counterbalancing entry in the Balance Sheet. We have said in this case that we will show in the future in a London Transport Balance Sheet what sums have been gathered in for a like purpose. When one has the opportunity to gather in sufficient revenue to give one a surplus of, say, £3m., in that Balance Sheet at the end of the year one either sees the £3m. in the money in the bank or in a rise in the value of the fixed assets, or both. There has to be a counterbalancing entry on the liabilities side of the Balance Sheet, and it does not matter for this purpose whether it is called "Replacement Reserve", or "General Reserve", or merely "Surplus on Revenue Account"; it is the counterbalancing entry, and the important thing is that the money has been raised and has been obtained, and has been obtained for this purpose.

I think that is a view which you share, since I noticed that at page 319, Question 5084, you said that if there was a surplus provided above the contribution to Central Charges, that fact alone would, to your mind, be a sufficient record of what had been provided, and I would, with great respect, agree with that. But in point of fact, as I say, we are going to put the figures and show what

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[Continued]

has happened. We do not undertake to have an entry in the London Transport Balance sheet expressly labelled "Replacement Reserve", what the label will be I do not know; but the point will be that there is the surplus over and above the £6m. Central Charges.

(President): You have not made up your mind, or you had not when Mr. James was asked about it, whether you were going to treat it as a deduction from the accumulated deficit, had you?

(Mr. Fay): No, Sir, that is perfectly true. There are a number of accounting difficulties which I do not think I need go into. The important protection for any future Objector is, as you pointed out in the question I have cited, the fact that there will be shown to be, whatever it is—and we hope there will be—a surplus over and above the contribution to Central Charges, and whether, as I say, the label is one thing or another, and whether there may be included in it a reduction of accumulated deficit, does not matter.

(President): It is obvious, is it not, that on any future Application to this Tribunal if it were shown that there had been gathered in £Xm. over working expenses, plus any reasonable figure for Central Charges, no Tribunal would interest itself in a kind of three-card trick wondering where it had got to in the accounts? It would be absurd.

(Mr. Fay): I am much obliged, Sir. Mr. Hill seemed to attach some importance to the labelling. In my submission, there is no importance to be attached to the label on the liabilities side of the Balance Sheet, and I shall not deal any further with that.

May I turn to the question of the General Reserve?

(President): I suppose, Mr. Fay, that if there had been no Income Tax on trading profits no one would have heard of this discussion about something called a Replacement Reserve as distinct from a depreciation provision, would they?

(Mr. Fay): I am afraid I do not know enough about accountancy to be able to answer that usefully.

(President): They are both aimed at the same end, are they not?

(Mr. Fay): Well, Sir, I dare say that accountants, like lawyers, are apt to be conservative in their outlook and they have clearly become wedded to depreciation on historical cost, which was clearly the right method in a time of stable prices.

(President): The problem did not arise then. Whether what they were doing was aimed at producing a certain fund of money at the end of a term, or whether it was aimed at producing an actual physical object at the end of a term, they got it by an ordinary straight line depreciation. It was only when prices began to jump about that the question arose.

(Mr. Fay): One can do it either way. As you say, it may be that the outlook of the Inland Revenue has affected the matter, although the Inland Revenue has no hesitation in writing the amount back when it finds it in Revenue Account under Depreciation. I should have thought it may be that accountants have other answers to that question, which I fear I cannot give you.

(President): Of course, the battle was waged before Mr. Tucker, was it not, on taxation of trading profits, and there were strong views, certainly lucid views, in favour of allowing at any rate a measure of replacement depreciation.

(Mr. Fay): Yes.

(President): And Mr. Tucker's Committee came down against it?

(Mr. Fay): Yes; but whichever way it appears in the accounts, there would be no difficulty in adjusting matters for the purpose of making your return to the Inland Revenue.

(President): No.

(Mr. Fay): How far the Inland Revenue itself influenced the division of opinion amongst accountants, I do not know, and I do not know that it is important from this point of view. But I would in this connection like to revert to something you said on Friday about the practice

of the Commission in favour of what I certainly understood to be the general practice of dealing with it in the way in which they have, namely, continuing to depreciate on historic cost and endeavouring to provide a Replacement Reserve as mentioned in that note to the accounts. As I said a little earlier on, they were pioneers, really, in 1948 in this matter. The question has been greatly discussed since and opinion has shifted to the view which they then took, but I would submit that no deduction adverse to their view can be drawn from the fact they have not gone over to a depreciation charge in their working expenses based on renewal costs, because I note, amongst other things, that that was expressly dealt with by the Minister of Transport in the decision in the *Western Welsh* case. He said he did not think it mattered one way or the other whether the depreciation was upon renewal costs or by way of an appropriation to a reserve out of the revenue surplus; the important thing, he said, was the amount of money set aside, or available to be set aside, for the purpose. That is almost word for word what the Herbert Committee subsequently said, and, in my submission, when the Minister who is most concerned with the Commission takes that view and the Herbert Committee takes that view, no adverse deduction can be drawn from the fact that the British Transport Commission also takes that view.

There is this to be said of a body like the Commission which was in deficit, that it would, perhaps, be misleading to show in one's working expenses depreciation on replacement cost if, in fact, the money was not coming in in sufficient quantity to provide for it. It would give an illusion of providing for replacement at replacement cost without the reality.

(President): I should not have thought the accountants would have passed their accounts if they were drawn up in that way.

(Mr. Fay): It may be so. It may be they would have added a note; it may be, after what we have heard of the accountancy process and the activities of auditors in this case, that they would have been satisfied either way. I do not know; but it is a way in which it could have been done. I should have thought, to have a depreciation provision on replacement costs which brought out a working deficit, and, no doubt, if an appropriate note was made in the accounts the auditors would pass it. But, in my submission, there is nothing either way in this point. It is a well-recognised method and one which, in my submission, has this to recommend it, that it does not purport to show something as having been done which in point of fact, as far as the Commission is concerned, cannot be done. The point in this case is London Transport ought to be able to do it and can do it, and they ought to be allowed charging powers which enable them within the maximum, feeling their way towards the maximum, to obtain that sum of money.

(President): Eventually?

(Mr. Fay): Eventually, yes.

May I now turn to the General Reserve?

(Mr. Mercer): May I be allowed to interrupt before my friend commences the next part of his case? Having regard to my friend's reference again to the table put in by Sir Milner Holland on page 411, you may remember that you did allow Mr. MacLaren to make a comment which is recorded at page 455 at the top of the first column.

(President): You want us to bear that in mind?

(Mr. Mercer): If you would be so good, Sir. This matter was referred to by my learned friend, and there was this comment by Mr. MacLaren which is recorded at the top of page 455. My only comment at this stage would be that it would appear, with respect, that the same comment applies now as applied before, and perhaps that could be read with what my friend has referred to this morning.

(President): I have written on my table at page 411 that I must consider what Mr. Fay said about it at page 428, and see what Mr. MacLaren said about it at page 455.

(Mr. Mercer): I am much obliged, Sir.

(Mr. Fay): Now General Reserve, Sir. We have pitched the figure for General Reserve at £2m. We have propounded charges as maximum charges which, on this

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[Continued]

year's level of traffic, will, in fact, attain, not £2m., but £1.7m. At long last I think the Objectors are, in principle, agreed that London Transport should set something aside for General Reserve. Mr. Lawson has obtained out of the air the figure of £1m. Mr. Hill adopts a more stringent view and says that, although it is desirable, now is not the time. Mr. Hill had been present at all these Inquiries and given evidence in many of them but, according to him, it never has been the time, and one wonders when he will permit London Transport to obey the injunction laid on the Commission by the Act that there should be a General Reserve designed, among other things, as the Statute says, to prevent frequent alterations in charges.

If it is accepted that there should be a General Reserve, as I think it is, the question really is how much? Since one is dealing with a reserve which is designed for a number of purposes, the statutory purpose of acting as a cushion, the purpose to which the Commission attach importance of contributing to self-financing and the further purpose of, to some extent—though this is not put in the forefront of the case—catching up with the deficit, then one can argue round and round what is the right figure, and there is no golden rule or touchstone which can produce any given figure and enable one to put one's hand on one's heart and say: "This is right."

Mr. Lawson thought a reserve should be built up to a sum of £10m. Bearing in mind the accumulated deficit, whatever it is, I would submit that the sum which has been asked for of £1.7m. is, in fact, a modest contribution towards building up such a reserve. There is some authority for that on what has been thought right in other quarters. The Herbert Report, as you recall, suggested 1 per cent. on the invested capital, a figure which, if applied to London Transport, would produce £1½m., not very far out from my £1.7m. The Herbert Committee's 1 per cent. is the equivalent of ¾ per cent. on the electricity industry's turnover, and on ¾ per cent. of London Transport's turnover the figure would, in fact, be about £2½m. and not £1m.

Mr. Lawson made that point, I think, under a misconception and said that if we accepted the Herbert Committee's figure and applied it to our turnover we should only ask for £2½m. whereas we were asking for £5m. As I read the Herbert Report, the 1 per cent. or the ¾ per cent. on turnover is purely General Reserve after full provision for replacement at current costs; in other words, it is the equivalent to our £2m. and not our £5m., which is the two reserves put together. That being so, Mr. Lawson's point about the exorbitance of our request disappears, and, in point of fact, it shows how modest the requirement put forward is.

Mr. Lawson had a further point about the necessity of the undertaking's General Reserve from the self-financing aspect, and I would like to refer to what he said at page 339 of the transcript.

(Mr. Grant): I am afraid we have not got the Herbert Report with us so I cannot check my learned friend's reference, but I do not think this was put to Mr. Lawson in cross-examination and he is not to take it we accept that the 1 per cent. referred only to General Reserve.

(President): Of course, it depends upon one's reading of what the Herbert Committee said, and one must construe it for one's self. I just looked at it, and I think the 1 per cent. does seem to relate to reserves after providing for full depreciation; but that is a matter at which one must look.

(Mr. Fay): I expect you have looked at Paragraph 341 on page 86 of the Report, which says that in terms. That is, in fact, the paragraph containing the word "modest" in two places which I have already read in cross-examination of Mr. Lawson, so although I was not on the point, it was actually put to him. The words which are material are: "1 per cent. after providing for depreciation on the basis suggested above and interest charges."

(President): Anyhow, Mr. Lawson thought that the Herbert Committee were very wide of the mark in this chapter, so perhaps it did not matter.

(Mr. Fay): I was referring you to page 339, Sir. Mr. Lawson in re-examination is referring to what the electricity industry has done in the last year for which their accounts are published, and he refers—and I need not refer to the

exact place—in effect, to the fact that they provide £69m. for depreciation and a further £16m. surplus for self-financing. At Q. 5652 my learned friend Mr. MacKenna asked him this question: "You have drawn attention, have you not, to the corresponding figures on Mr. James's £5m., namely 6 per cent. or so on the revenue comparison, and 3 per cent. on the capital comparison, for London Transport. Have I got that right?" (A) I do not think I have drawn attention to that, but I think it is approximately right. £5m. on £80m. receipts is 6½ per cent., and if the capital is £150m., 5 per cent. on that is about ¾ per cent. on the capital. (Q) So on Mr. James's figures he is apparently asking London Transport to provide, taking the capital comparison first, about three times what the electricity industry provides?—(A) Yes. (Q) And taking the revenue or receipts comparison, it is about twice as much?—(A) That is right."

I would like to deal with that if I may, Sir, and I have two comments about it. The first I have already made, and that is that the Herbert Committee was suggesting and recommending that there should be full replacement depreciation plus the 1 per cent. on invested capital for General Reserve. Secondly, that in taking the £69m. for depreciation and adding to it the £16m., as Mr. Lawson has done in order to find what the electricity industry's self-financing is—

(President): I cannot find the £69m.

(Mr. Fay): It appears further back at Q. 5497 on page 334, when I was cross-examining him.

(President): He is quoting from the accounts for the year ending the 31st March.

(Mr. Fay): Yes. I am afraid I took this a little too shortly with my eye on the clock, and I should, perhaps, refer to that first. The important answer, I think, is \$498 in which Mr. Lawson is saying this: "So that this is referring to self-financing of £85m., of which £69m. is historical-cost depreciation and £16m. is surplus which is available for Supplementary Reserves, for replacement depreciation, Area Boards Reserves and everything else." He then goes on to say the £16m. is 1 per cent. on revenue, and in the next answer he says: "... it is almost exactly the Herbert Committee's 1 per cent." But it is not the Herbert Committee's 1 per cent., because this is the electricity industry's entire surplus, and if their surplus is \$498 in which Mr. Lawson is saying this, then they have not provided anything for replacement at current prices. They have, in fact, provided £69m. for historic-cost depreciation, which cannot be compared in any useful sense with the historic-cost depreciation of London Transport for two reasons: One is that the electricity industry depreciate all their assets, including land and buildings and other matters which, in the case of the transport industry, are not depreciated at all but are dealt with by maintenance as a charge against the annual income; and, secondly, there is a much higher proportion, so I am instructed, of new assets in the electricity industry's collection of fixed assets than there is in the case of London Transport. Those are my instructions, and if one looks through the Electricity Report, I think that fact can be borne out.

Unless one knows what is the age of the assets being depreciated, the total depreciation figure cannot usefully be compared with the total depreciation figure in London Transport, although they are both on historic cost, the position being, as I understand it, in the electricity industry that the proportion of new assets in respect of which the historic cost more nearly approaches the replacement cost of today is much higher. In other words, it is as though the Piccadilly Line rolling stock had already been replaced and the amount required for it had come out of the replacement reserve and had gone into historic cost depreciation.

(Mr. Poole): You say that the Central Electricity Authority depreciate all their assets. Do they have a Capital Redemption Fund in the same way as the Commission?

(Mr. Fay): No, I believe not, Sir. I believe they do not, and I believe they say they do not do so because they depreciate all their assets.

(Mr. Poole): The two things might balance each other out.

(Mr. Fay): That, I think, is their justification, that it is their equivalent of capital redemption, or so they claim;

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but it does make any comparison between figures of this kind of very little assistance.

(Mr. Poole): I agree.

(Mr. Fay): Because one does not know how much of the difference between, say, a pre-war cost and a present-day cost should go into replacement reserve and how much of it should go into historic cost depreciation. One cannot tell that unless one knows the age of the assets.

I would say that the Herbert Committee's 1 per cent. is a fairly useful guide to take as a starting point on the size of the general reserve. When one bears in mind that that Committee recommended that figure—which comes out at £1.5m. if applied to London Transport—in respect of an expanding industry which is not subject to the vicissitudes that the Transport industry is subject to, then it must follow that as between electricity on the one hand and transport on the other a bigger reserve is needed for transport. It has to cope with more sudden variations in demand and it has not got the thought to look forward to that the industry is an expanding one and that more money will be coming in in the future. Those are reasons for increasing the amount and not decreasing it and, in my submission, the Herbert Committee's 1 per cent. is, as near as may be, a complete justification of the £1.7m. for which we have asked in this case.

Mr. Hill's point is that one should not set up a reserve in a time of declining traffic. That means, I suppose, since he agrees traffic has been declining throughout the time of these Inquiries, that he is saying that the British Transport Commission can, in effect, never in the foreseeable future create a general reserve in respect of London Transport.

(President): Mr. Hill did agree on this occasion that there should be a surplus, but he said it must be a small one.

(Mr. Fay): Yes; he did not attempt to quantify it in the way Mr. Lawson did. He did agree that, although the provincial bus companies were experiencing declining traffic in the same way as London Transport, they were, in fact, putting money aside to reserves; the reference to that is page 318, when the figures were put to him. I do not think I need say any more about that.

The general reserve is a matter which the statute directs the Commission to provide. That being so, it must figure, in my submission, in the revenue requirements of a constituent of the Commission such as the London Transport Executive.

(President): All that is subject to section 3, sub-section (4) of the 1957 Act, is it not?

(Mr. Fay): Does that touch London Transport?

(President): I do not know.

(Mr. Fay): In my submission, it clearly does not. If you wish that to be argued, I will argue it with pleasure. In my submission, it is quite clear it releases the Commission from its duty to provide for making both ends meet, as we conveniently call it, only in respect of the interest or deficit for the time being represented by an amount standing in the special account. Does that not mean that, except to that extent, the Commission is still under, and completely under, and it is re-affirmed that they are under, the duty set out in section 3 sub-section (4), which duty refers one, looking on, to the general reserve provision? There is not, in my submission, any repeal or alteration of the duty as regards general reserve; the only alteration is as regards the amounts which one takes into consideration.

(President): It cannot put anything to general reserve when it has got a general deficit, can it?

(Mr. Fay): Oh yes, Sir, if there is the special account. You recall that on the Accounts for 1957 there was a surplus apart from the special account, and the Accounts were required to be kept in this new form to show whether or not there was a surplus on the activities other than British Railways, and there was. I suppose it would have been possible to attribute a portion of that surplus to a general reserve, I do not know; but, at any rate, there it was as money earned and not spent. It does have this effect, of course, that it has to be spent on the capital requirements of British Railways because British Railways' borrowing powers under the 1957 Act are reduced

by the amount of any such surplus; but there it is, there is a surplus apart from the special account and, in my submission, the Commission still has the duty, reaffirmed by section 3, sub-section (4) of the 1957 Act, of meeting all its charges, including the creation of a general reserve or the earning of a sufficient sum to be the equivalent to a general reserve for the purpose of avoiding among other things, sudden changes and frequent changes of fares.

(President): I think the case for requiring the London Transport section to build up, if it can, a general reserve is really better stated without reference to any of the statutory requirements, it seems to me, on the ground that if we are going to look at London Transport specially—as the Commission has from the beginning sought to do, although it need not have done—than the least that can be required of it is that it should be considered to be a fully viable undertaking by itself without reference to the fact that it is part of a Commission which, under the statutes before 1957, was required to do this, that and the other.

(Mr. Fay): Yes, Sir. Of course, that is part of the way in which I put my case when I opened this matter.

(President): Yes. You see, it does not follow of necessity, from the fact that the Commission is required under the 1947 Act to pay its way in the sense specified in section 92, that London Transport should be required to pay its way in the same sense.

(Mr. Fay): There is no legal requirement in terms which could be enforced. No one could go along and get a mandatory injunction requiring the Commission to require London Transport to provide a general reserve, that I concede at once, and perhaps it may be I have gone into the spirit of the Act rather than the letter of the Act; but when one finds that the Commission is so to conduct its undertaking, then by parity of reasoning, unless it conducts the individual parts of the undertaking in that way it cannot perform its statutory duty.

(President): Surely, Mr. Fay, it could, in theory.

(Mr. Fay): By cross-subsidisation?

(President): Yes. When there were a number of Executives no one supposed that the Hotels Executive at the time was making a full contribution to Central Charges, or could do so. It is quite possible for the Commission to fulfill its full 1947 Act statutory duty and allow London Transport to be subsidised heavily by Inland Waterways, or anything else you like.

(Mr. Fay): Yes, indeed, Sir. There can, of course, under the Act be cross-subsidisation, but unless globally the constituent parts produce a surplus, the Commission cannot have one.

(President): They cannot all be run at a deficit.

(Mr. Fay): When one finds an undertaking such as London Transport which can produce it, in my submission, it should produce it. But, again, it is a question not of the legal enactment so much as what follows from what Parliament has laid down and what equally follows from commercial prudence and business management.

In my submission, if I may say a last word about the general reserve, among other things it has to be designed to deal with alterations in receipts and expenditure and act as a cushion. We had some discussion on Friday on future trends, and I said, for the purpose of examining what the net revenue position was going to be after 1959, I was content to assume against myself that the trend, which we have taken for this exceptional year, 1959, at £3.6m. and which Mr. Hill established down to this year was £0.6m. over many years, would cease, but the downward trend may not cease. The point I am about to make is this: This Scheme is designed to endure for several years. If after the end of 1959 there is a declining trend of £0.6m., then in three years the general reserve will have gone. Three times £0.6m. is £1.8m. and the general reserve is £1.7m., so that entire surplus will have got worked into the working expenses and will have disappeared as a general reserve; it will, in fact, have completed its function of acting as a cushion in that event, and that is, perhaps, the best argument for the modesty of the sum of £1.7m. as a general reserve put forward in this case.

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[Continued]

I am approaching the end of my observations, but I must say something about London Lines. I propose to say very little about the general question of London Lines and their global finances, because, as I have read the proceedings and listened to them, there is no dispute between the Objectors and the Commission as to that approach, or as to the tentative figures which have been put forward by Mr. Winchester to show the position of London Lines.

(President): My impression is there is no dispute about the first of those two points; namely, everybody agrees with, or nobody is concerned at this Inquiry to oppose, the notion that what is good for London Transport must be, at any rate, treated as acceptable in the case of London Lines. I do not think there has been any argument to the contrary.

(Mr. Fay): No, I do not think there has. Mr. Hill produced a table which in the end he agreed was not criticism but comparison.

(President): Mr. Hill said he was surprised by the figures, but I do not think he put it higher than that.

(Mr. Fay): Mr. Hill, if I may be permitted the expression, is sometimes easily surprised. He allowed his comments not to pass beyond the stage of surprise into the stage of criticism, in fact he expressly disclaimed criticism, and, in those circumstances, I do not think it is any part of my duty to take up time dealing with the global position of London Lines.

I do, however, want to say a word about a point which my learned friend Mr. Grant has made about ordinary fares on London Lines. He has pointed to the fact that what is proposed is that the ordinary fares on the London Lines of British Railways outside London will be, if this Scheme is approved, 3d. a mile. The first point I make here is that this applies, of course, only to a small proportion of the London Lines' traffic. It is only the people who want to take the single journey, or the people who want to take a return journey other than a day return journey, who are affected.

Mr. Grant says that 28 per cent. of London Lines' traffic will produce the increase. I venture to think that is not an accurate figure. Twenty-eight per cent. of London Lines' traffic today, as our tables have shown, travels at that particular fare, but that fare, as from 2 to 11 miles inclusive, is the same as the day return fare; or, in other words, anyone who wants to make a day return journey today for two miles, or any mileage up to and including eleven, gets an ordinary return ticket and what he pays comes within the figures shown in the tables as ordinary fares. But under the proposals of this Scheme, all those persons from two to eleven miles who want to return in one day will transfer from the ordinary fare to the day return fare; in other words, they will get their journey at the London Transport scale.

That considerably diminishes the area of complaint which Mr. Grant may legitimately put forward, and I would submit that the position today, as regards that 3d., is no different from the position in 1950 and 1951 when assimilation first came in. All the fares on London Lines of British Railways are assimilated with the fares of London Transport except the ordinary, and the ordinary cannot be assimilated for the practical reason of the difficulties when crossing the boundary, the fact that any other result would lead to anomalies and, indeed, people re-booking or taking two tickets in order to cheapen their journey if they were going to a point just outside the boundary. That matter was gone over and discussed and decided in the 1950 and 1951 Inquiries, and I say no more about it.

(President): I have often wondered why it was not reopened all the same, to express a personal view.

(Mr. Fay): Of course, theoretically one could provide a cheaper single fare on London Lines, but the effect would be bound to be to depress all the fares outside London if the charging powers for ordinary fares outside London were higher. It would depress them for a very considerable mileage outside London and create an area around London where the fares changed from one scale to the other, which would result in a very considerable

decrease in revenue assuming the Scheme to be fully put into force.

Another point made by my learned friend Mr. Grant was that the Scheme sought a higher yield from London Lines than from London Transport. It is a perfectly good point, of course, that the percentage yield thrown up is higher, but the point loses its force, does it not, if one looks back at past years and sees how lightly London Lines have been treated in comparison with London Transport. The figures have been worked out for me that since the first Scheme the increased yield down to the Scheme now in force has been: London Transport, 55 per cent. and London Lines 37 per cent., so London Lines have had to bear far less of the yearly increases than has London Transport. After this Scheme comes into force, if it does at the full rate, the London Transport yield compared with the early days will rise to 66 per cent. and London Lines to 61 per cent.; so still, with this Scheme fully in force, London Lines' travellers will have been asked to contribute less than London Transport travellers by way of increases since those early days.

But I would also point out the average receipts per passenger mile, which are given in the report of the Commission for 1957.

(President): They are given in the body of the report, are they not?

(Mr. Fay): Yes, in Volume I at page 54. The average receipts per passenger mile on London Lines is 1.33d., whereas on London Transport rail services it is 1.67d. and on London Transport road services it is £9.8d.

Would that be a convenient moment to adjourn, Sir?

(President): Very well.

(Adjourned for a short time)

(Mr. Fay): May it please you, Sir; I have now concluded what I wished to say about the details of the case in London and I now only have a few concluding observations.

The Commission, so far as London is concerned, have produced fare scales which, if fully implemented, will produce an amount of revenue which I trust they have demonstrated in these Proceedings a well-run transport undertaking ought to have in order to keep it in a financially healthy condition. That is the ceiling which they agree should be put upon their financial charging powers.

I have used the word "modest" on many occasions in the course of my observations to you; in my submission it is a low ceiling and the financial requirement which the Commission has put before you is modest. Quite clearly any undertaking must cover its working expenses and the service of its capital; and after paying Central Charges this Scheme, if implemented in full in the present circumstances, will produce a surplus of £4.7m.

(President): £4.7m.? Of course, you start with £1.0m. down.

(Mr. Fay): Yes, Sir; I start with a deficit—a shortfall against Central Charges—of £1.0m. The Scheme will produce £5.7m., which means that there will be a surplus, after paying Central Charges and other charges, of £4.7m.

That £4.7m. is the amount of true surplus which can be put to reserves of either of the kinds I have mentioned and it is in fact something under 6.0 per cent. of the turnover of £80m.-odd. I would ask: Is not a surplus of 6.0 per cent. a modest surplus? What manager of any ordinary business could satisfy his employers if he produced no more than that?

There is another test of the fact that this Scheme is not some major departure from the past and does not inflict major financial demands on the travelling public. It is intended to last, not for one year but, it is hoped, for several years—how many years, nobody can, of course, conceivably forecast, but we certainly hope that it will last for three years.

(President): Of which this is one?

(Mr. Fay): Yes, Sir—well, counting from the time the Scheme goes into force, which I hope will be about the middle of this year.

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[Continued]

Let me look back at the last three annual Schemes which this Tribunal has authorised. The first two were alterations and the third was a new Scheme, and they produced, in 1955, 1956 and 1957, a net yield for London Transport of £10·4m. So that is what has been afforded in the past by way of fresh charging powers to London Transport in a three-year period.

When we come along with a Scheme which we hope will last for three years and ask not for £10·4m., but for £5·7m., in my submission that again is a test, or measure, of the fact that this is not a Scheme which marks any vast departure or which puts any vast imposition upon the travelling public.

It is a modest Scheme, Sir; it differs from the previous Schemes presented because it is firstly, as I have already said, hoped that it will last for some time; and secondly because it asks for a larger surplus than Schemes have asked for since 1950.

The departure in asking for a larger surplus is a reflection of the fact that this is not intended to be a Scheme, like the other Schemes affecting other activities of the Commission which the Tribunal has approved, made under the 1953 Act and giving some headroom, some elbow room, some area of discretion. So far as London is concerned, the area of discretion is of a very different kind from that which is sought outside London and it is wrong perhaps to call it headroom. It is certainly wrong to use the term "flexibility" in relation to it but—and this brings me back to what I was venturing to say this morning—there is in this Scheme an area of discretion, an area for the exercise of the discretion of those who manage the affairs of London Transport, as to when and by how much they shall use the powers.

They have said that they hoped to use all the powers eventually; their progress towards that goal by how many stages, whether differently in different parts of London or whether at different times and so on, must, in my submission, be a matter for their discretion. If it is not so, how is one to give effect to paragraph (d) Section 20, sub-section (2)?

That is the way in which this Scheme is put before you as regards London, Sir, and that is how I sum it up.

Before I finally close my observations, I must address my mind to one other matter. The Objectors have, with their persuasive powers, argued that the revenue requirement by which the maximum would be decided is something less than that which has been put forward. You, Sir, have let fall observations which show that their comments, as of course, they must be, are well present to the minds of the Tribunal. I should be less than a realist if I did not address my mind at some stage to what is to happen if the Tribunal were to think that the revenue requirement by which the maximum is fixed is something less than that which has been asked for.

In that event I would ask that the Commission be still given the powers for which they ask in this Application. If you thought that those powers were, in present circumstances, higher than they ought to exercise, there are ways and means by which they could be restrained from going to the full length—ways and means which they would like to have the opportunity of discussing publicly at a resumed Hearing.

You did say that if you thought the powers of the Scheme should be cut down you would afford an opportunity to the Objectors to be heard upon such new scales and so forth as might be called for in the light of your decision. In that event, the Commission also would like to be heard upon the question as to whether there should be any cutting down of the total powers to be conferred by the Scheme, or whether some other course should be adopted which, meeting the decision of the Tribunal, would allow the Commission eventually the powers which they now seek. If some such course were adopted, it would obviate, or at least postpone, the necessity for another protracted and costly Inquiry.

(President): Are you saying that suppose when we have done our arithmetic, or whatever other exercise of skill and judgment we are supposed to perform, we come to the conclusion that you are a little too extravagant in the assessment of your needs, you want to have an opportunity of dealing with it?

(Mr. Fay): Not with that finding, Sir, but with what should flow from it.

(President): However much or however little we may differ from you, you desire to be heard on what should be done as a result of that finding?

(Mr. Fay): Yes, Sir, with a view to saving the recurrence of another Application at a sooner, rather than a later, date. One cannot help looking at what has happened in the past and how, come what may, new charging powers have had to be sought at intervals, and a great many gentlemen have had to address their minds to these questions—gentlemen who might well have been employed elsewhere. I exclude my learned friends and myself from that, of course, but these are protracted and expensive Inquiries.

One of the objects would be to see that such Inquiries do not recur at annual intervals and if they do recur at all, they recur at longer intervals.

There are a number of ways in which the Examination of the future might be dealt with in a Scheme; the charging power might be cut down with a time limit; the Tribunal might say that there should be, and the Objectors might accept, an undertaking—there are a number of different ways in which I do not propose to adumbrate at this moment, which one might like to consider in the light of the Tribunal's finding as to what should be done now. If we look forward three years, how can anyone say what is going to happen; how can anyone say what the level of prices and wages is going to be in 1962? One would like to reserve a charging power, assuming you think we have asked for too much at the moment, which could be used in the event of a change of circumstances.

(President): Yes, but there are some possibilities that could not be dealt with in that way. Supposing, for instance, we were firmly of the opinion that early morning fares ought to remain an obligation upon the Commission, then it would be no good summoning you to discuss what the situation ought to be after that.

(Mr. Fay): No, Sir; that is another part of your duties, with which I could not seek to interfere—I have made my submissions about that.

As I see it, the Tribunal would have to consider the total revenue to be aimed at, and apportionate between the different users of London Transport.

(President): But if that were an interim decision—and I am not in the least saying that it is likely to be so, or even a firm decision at the moment—that would involve, even accepting your financial estimate as a whole, a modification of other proposals, would it not?

(Mr. Fay): Yes, indeed. If you were minded to say that early morning fares must remain at a certain level, if there is to be the same financial requirement to be met, other fares would have to be increased to make up for the deficiency that would be occasioned: any alteration in the relative contribution of different classes of passengers must have its repercussions on the other classes.

(President): Yes; you may take it that if we come to a decision of any importance involving important differences of opinion as to your revenue requirement, we shall re-open the Inquiry.

(Mr. Fay): If you please, Sir; that meets the points which my clients are most anxious about, namely, that they should have a reserve charging power and should not have to come back with greater rather than less frequency.

(President): Yes; we would re-open the Inquiry and say that anyone could come here and say anything they like about the results.

(Mr. Fay): Yes, Sir; I was not seeking to say that you should be without the assistance of my learned friends.

For that intimation I am obliged and I think that renders it unnecessary for me to say anything more at this protracted Inquiry except that I should apologise for the time that I personally have spent in summing up the Commission's case; it seems to have run to a vast number of pages in the transcript.

I would like to conclude now on behalf of—

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[Continued]

(President): Before you go on to something which sounds purely formal, Mr. Fay, where does the six month limit run from?

(Mr. Fay): From the first day of this Inquiry—from when I announced it, on the 18th December, to the 18th June.

(President): And it does not run any further now that we have occupied three months for the Inquiry?

(Mr. Fay): No, Sir.

(President): Therefore, if we wanted to run forward we should have to do it by putting a later date to the coming into force of the Scheme?

(Mr. Fay): Yes, Sir, subject to this, that if such a question arose, I have no doubt that my clients would like to consider it.

That undertaking that you have mentioned was that there would be no general increase in prices; it did not extend to special increases which might be made within existing powers, and so far as outside London is concerned, my clients will want to know their charging powers at the earliest possible minute so that they can put in hand the exercise of managerial discretion which will result in the use of such flexibility as they are given.

(President): But if we postpone the coming into operation of the Scheme for a longer time than you are hoping, would that give your clients outside London time to make their arrangements?

(Mr. Fay): I do not think they would need a longer time, Sir; they would want their elbow room, headroom, or whatever part of the anatomy room they call it, as soon as possible.

(President): How long will they require to make the arrangements of which you are speaking?

(Mr. Fay): With regard to outside London, I would like to take instructions, Sir.

It is inherent in the nature of the proposals for outside London that they can be introduced without very much anticipatory work; it is not like changing whole schedules of fares, as has to be done inside London. This will be the individual application of the exercise of charging powers, which will require very little preparation and very little time to prepare.

With regard to outside London I cannot give any time, except to say that it will be short in any given case.

(President): What about inside London?

(Mr. Fay): There again it is a question of getting new scales ready, altering ticket machines and so on. I will take instructions about that, Sir.

(President): While you are taking instructions—I see somebody is working on it behind you—I ought to have mentioned before that I am inclined to think that there ought to be in the Scheme some provision requiring publicity, or some public availability of the terms and conditions. We have had the matter of the terms and conditions before us quite recently in another Application and there is nothing in the Scheme as it stands at present requiring a publication in any shape or form.

(Mr. Fay): It is a long time since I have looked at the provisions regarding publicity, Sir; I was looking to see what your powers were—

(President): Do not trouble about what our powers are at the moment; we can risk that. There is nothing in the Scheme which enables anyone as of right to go to a booking office and say: "I know that if I get a ticket there will be words on it on the back which, if I am lucky, will be legible and which will tell me that it is issued subject to certain terms and conditions"; having got that far there is nothing in the Scheme which enables that person to go to the booking office and say: "I want to look at the terms and conditions".

(Mr. Fay): That is true, Sir, but in point of fact, the conditions are readily available and I do not suppose it would make any difference to my clients if they were required to do what they are in fact doing. They are certainly posted up at all stations—

(President): I doubt whether they are posted up at all stations.

(Mr. Fay): Perhaps I was thinking about outside London; I know I have spent idle moments reading them.

(President): I doubt whether they are all posted up even outside London—anyhow, if it is, it must be a big poster.

(Mr. Fay): I am quite sure that my clients would not put any difficulties in the way of anybody who wished to ascertain what they were, and I am sure that my clients would accept any requirement the Tribunal wished to place upon them, and which it thought reasonable, in that respect; they would be happy to accept it.

I am told that I was right in saying that at all events British Railways have their conditions put up in every booking office—

(President): I could not help looking at the document you have just been shown, Mr. Fay; that does not in fact contain all the terms and conditions, does it?

(Mr. Fay): I think my learned friend Mr. Patrick Browne could answer that better than I could, Sir; he has recently been in a case which may have brought the terms and conditions to your mind!

(President): At any rate, I think they ought to be made available.

(Mr. Fay): I think this is what I have spent some time in studying when I have been waiting for a tube train.

(President): But that is London Transport?

(Mr. Fay): Yes, Sir.

(President): The others are more interesting!

Very well; I only thought we had better warn you in case you should have any kind of shock if you found something in the Scheme which you had not put there yourselves.

(Mr. Fay): I am sure my clients would recover from any shock, and they would be very happy to do anything which you thought reasonable.

(Mr. Poole): Mr. Fay, right at the beginning of your final address you said that the 2-44d. per mile—you know what I am referring to—which was in force up to that time (I think that was 1952) was a fare which was widely used at this rate. That is what you are reported in the transcript as having said. I know it was widely used for basing the charges to the forces—that was calculated on that 2-44d.; it was a very much lower charge—but my recollection is that it was not very widely used by the travelling public.

(Mr. Fay): It depends upon what you call "widely", Sir. There was an exhibit put in—

(President): I think it was £8-0m.

(Mr. Fay): It was £8½m. compared with £40m.-odd for monthly returns.

(Mr. Poole): Yes, thank you very much. I will find that exhibit—

(Mr. Fay): It is a sum which, in my submission, one cannot brush aside as being negligible. I think I can give the reference to it in a moment, Sir—

(President): The figure has been spoken to in the course of this Inquiry, but there is not a reference to the table in which it first appeared.

(Mr. Fay): I thought I put it in my notes for my final speech—

(Mr. Poole): It was at the 1951 Inquiry, Mr. Fay.

(Mr. Fay): It is Exhibit BTC 301 of the 1951 Inquiry, Sir. My note is that in that document the ordinaries are shown as yielding £8½m. at the then rates, and the monthly returns £42½m.

If there is no further respect in which I can assist the Tribunal I would like to proceed to what I think you anticipated just now when you used the words "a formality".

I would like to assure you, however, that it is no formality when I say that on behalf of all my learned friends and those behind us we do thank you and your colleagues for the patience and kindness you have shown to all of us during this protracted, and not easy, Inquiry.

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[Continued

(President): I am very much obliged to you, Mr. Fay.

(Mr. Grant): I have been asked to mention one matter to correct an impression which might have been left in your mind, Sir. On Friday at page 446 of the transcript my learned friend Mr. Fay referred to the cross-examination of Mr. Lawson; he said that he would not have a suggestion made to him about transfer of assets to the Central Electricity Board. Mr. Lawson is a Member of one of the Boards, and the proper reading of the cross-examination, which is set out at page 328, Questions 5294 to 5301, is, in my submission, that what he would not have is that the assets transfer included surplus lands,

and on that issue Mr. Fay, at Question 5300, said: "You may well be right".

(Mr. Fay): I am obliged to my friend; I wish he had said that on Friday.

(Mr. Grant): I did not have the reference!

(President): We cannot all remember everything that everyone has said during the three weeks.

I am much obliged to you; the Inquiry is not closed—one wants to keep it formally open—but unless it is reopened, it is closed.

(Mr. Fay): If you please, Sir.

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